

SENATE BILL 2587

By Black

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 1 and Title 37, Chapter 2, relative to permanency plans for children placed in foster care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-113(g)(2), is amended by deleting the language “permanency plan or plan of care” in its entirety and substituting instead the language “permanency plan”.

SECTION 2. Tennessee Code Annotated, Section 36-1-117(c)(6), is amended by deleting the language “permanency plan or plan of care” in its entirety and substituting instead the language “permanency plan”.

SECTION 3. Tennessee Code Annotated, Section 37-2-402(8), is amended by deleting the subdivision in its entirety and substituting instead the following:

(8) “Plan” or “permanency plan” means a written plan for a child placed in foster care with the department of children's services or in the care of an agency as defined in subdivision (1) and as provided in § 37-2-403;

SECTION 4. Tennessee Code Annotated, Section 37-2-403(a)(2), is amended by deleting the language “permanency plan or plan of care” in its entirety wherever it appears and substituting instead the language “permanency plan”.

SECTION 5. Tennessee Code Annotated, Section 37-2-404, is amended by deleting the section in its entirety and substituting instead the following:

(a) In addition to the plan required in § 37-2-403, the department or agency shall submit to the appropriate court or foster care review board a report for each child in its foster care on progress made in achieving the goals set out in the plan. Such reports

shall be prepared by the department or agency having custody of the child within ninety (90) days of the date of foster care placement and no less frequently than every six (6) months thereafter for so long as the child remains in foster care. At the time the progress report is provided to the court or foster care review board, the department or agency shall also provide a copy of the report to the child's parent(s) whose rights have not been terminated or surrendered, the parent's attorney, the guardian ad litem and/or attorney for the child, and the child who is a party to the proceeding.

(b) Within ninety (90) days of the date of foster care placement and no less often than every six (6) months thereafter for so long as the child remains in foster care, the court or foster care review board shall review the plan for each child in foster care. Notice of this review and the right to attend and participate in the review shall be provided to the child's parent(s) whose rights have not been terminated or surrendered, the parent's attorney, the guardian ad litem and/or attorney for the child, foster parents, prospective adoptive parent, relative providing care for the child and the child who is a party to the proceeding. The department and the court shall develop adequate procedures to provide notice of the review to the aforementioned persons. The court or board shall review the safety, permanency and wellbeing of the child by assessing the necessity and appropriateness of continued foster care placement, the appropriateness of services for the child, the compliance of all parties to the statement of responsibilities, the extent of progress in alleviating or mitigating the causes necessitating placement in foster care and in achieving the goals contained in the permanency plan, and project a likely date on which the goal of the plan will be achieved.

SECTION 6. Tennessee Code Annotated, Section 37-2-405, is amended by deleting subsection (b) in its entirety.

SECTION 7. Tennessee Code Annotated, Section 37-2-406(a)(1), is amended by deleting the language “advisory review boards on foster care” and by substituting instead the language “foster care review boards”.

SECTION 8. Tennessee Code Annotated, Section 37-2-406(a), is further amended by deleting subdivisions (2) through (4) in their entirety and by substituting instead the following:

(2) The judge or judges may request recommendations from the administrative office of the courts or the department of children’s services in making appointments to the foster care review board. Each board may include a nurse, a lawyer, a member of a human resource agency, such as the departments of health or human services, a member of a local education agency, a staff member of a local mental health agency, a youth who was formerly in foster care and shall include a mother or father with a minor child and a person under the age of thirty (30). The members appointed to the board shall serve for two (2) years and shall serve without any form of compensation or reimbursement of expenses. The youth services officer or other designated officer of the court shall serve as a facilitator to each county or regional board. In counties with a population of less than one hundred thousand (100,000), the board shall consist of five (5) members. In counties with a population of more than one hundred thousand (100,000), and in regions, each board shall consist of seven (7) members. A quorum must exist to conduct the review.

(3) In lieu of the provisions of subdivisions (a)(1) and (2), the judge having juvenile court jurisdiction in any county may elect to personally review each case and, therefore, not appoint a foster care review board or to personally review certain cases instead of assigning them to the board for review even though a board is appointed. In the event the judge elects not to appoint a board, the judge shall specify by written order of the court duly entered on the record the guidelines and procedures the judge will use

to ensure that the judge conducts the reviews required by this part for every child in foster care under the jurisdiction of the judge's court within ninety (90) days of the child's date of foster care and no less frequently than every six (6) months thereafter until such time as the child is no longer in foster care. A copy of this order shall be furnished to the county director of the department and to the commission on children and youth. The court may elect at any time to rescind this order and appoint a board pursuant to subdivisions (a)(1) and (2).

(4) All board members shall be required to participate in the training related to the performance of their duties.

(5) Nothing in this section shall preclude the court from reviewing a case, in lieu of the foster care review board, on either a motion by any party or on the court's own motion.

SECTION 9. Tennessee Code Annotated, Section 37-2-406, is further amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) It is the responsibility of the foster care review board or court to conduct the reviews specified in subsection (a). The board and the department shall develop adequate procedures to ensure that the case of each child in foster care is reviewed no less frequently than ninety (90) days after placement in foster care and every six (6) months thereafter; provided, that whenever a judicial hearing that addresses the issues specified in § 37-2-404 is held within six (6) months of a review, the next review may be held within six (6) months of the judicial hearing instead of within six (6) months of the previous review, except for the first hearing held within ninety (90) days of the foster care placement.

SECTION 10. Tennessee Code Annotated, Section 37-2-406, is further amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c)

(1)

(A) The foster care review board shall submit a report to the judge on each child reviewed. Such report shall be submitted to the judge within ten (10) calendar days following the review conducted by the board. Such reports are advisory and shall contain the board's findings and recommendations pursuant to the provisions of § 37-2-404(b). The report shall include the date of the next review. A copy of the report shall be provided to the department or agency and to the child's parent(s) whose rights have not been terminated or surrendered, the parent's attorney, the guardian ad litem and/or attorney for the child, and the child who is a party to the proceeding.

(B) The foster care review board may also make a direct referral to the judge or magistrate with such findings and recommendations under the following circumstances and timeframes:

(i) Where conditions persist that constitute a deterrent to reaching the permanency goals in a given case and such conditions indirectly and chronically compromise the health, safety or welfare of the child, such direct referral case shall be heard by the judge or magistrate within thirty (30) calendar days; or

(ii) Where issues in a particular case constitute a risk of harm and directly compromise the health, safety or welfare of the child, such direct referral case shall be heard by the judge or magistrate within seventy-two (72) hours, excluding non-judicial days.

SECTION 11. Tennessee Code Annotated, Section 37-2-409(a)(2), is amended in the fourth sentence by deleting the language “or is placed outside the state” and substituting instead the language “is placed outside the state or is on documented runaway status”.

SECTION 12. This act shall take effect July 1, 2010, the public welfare requiring it.